

¹ The March 17, 2022 letter of protest was filed using the Commission’s form letter of protest. However, Petitioner stated in the form submitted that she “would like to protest and intervene this application.”

MyRide intends to operate. Petitioner alleges that the counties are already adequately served, there is no need for another carrier, and that the Application was incomplete because Applicant's Articles of Incorporation did not accompany it. Specifically, Petitioner states the counties listed by the Applicant for the offering of services:

have more providers than necessary to serve the transportation and/or the ride-allocation needs of all private facilities and the SCDHHS state-appointed broker.

Furthermore, since the onset of Covid-19 in March 2020, the ride-allocations from the SCDHHS-appointed broker have been reduced by almost half. Any additional approved company will damage and adversely impact existing ORS-approved transportation providers located in these counties.

On March 24, 2022, MyRide filed its Articles of Incorporation.

By Commission Order No. 2022-171, dated March 24, 2022, the Commission requested that the Office of Regulatory Staff (ORS) investigate the letters of protest.

On April 15, 2022, ORS responded to the Commission request, stating that it conducts an:

inspection of every entity that applies for a Class C (Non-Emergency) Certificate of Public Convenience and Necessity based on Commission Rules and regulations to ensure each applicant meets the requirements of Fit, Willing and Able. ORS conducts this inspection as part of the compliance stage following the Commission's issuance of its order, which has typically allowed for a 90 day period during which ORS conducts its inspection. In the event the inspection yields findings that a company's vehicle(s) are not safe or fail to meet any aspect necessary to be fit, willing, and able the company fails the inspection, and ORS does not issue the certificate.

(ORS Letter dated April 15, 2022, p. 1). ORS does not offer an opinion regarding the need for Class C (Non-Emergency) carriers. *Id.* ORS further stated that if an order is issued by

the Commission, “ORS intends to conduct its standard inspection on the applicant and will ensure the company is in compliance before issuing the certificate.” *Id.*, p. 2.

On April 19, 2022, the Chief Hearing Officer issued Order No. 2022-37-H, granting intervenor status to the Petitioner. After review of MyRide’s March 24th response to Petitioner’s letter of protest, the Chief Hearing Officer rescinded his Order granting intervention and referred the question to the Commission by Order No. 2022-38-H.

On April 25, 2022, Scott Bagwell, the Customer Advocate/Transportation Manager for Modivcare, the sole transportation broker for non-emergency medical transportation for South Carolina’s Medicaid program, wrote a letter supporting MyRide and stating that delay of the carrier’s Application was harming the state’s citizens.²

Charles L.A. Terreni, Esq. entered his appearance on behalf of MyRide on April 26, 2022.

ORS was represented by Andrew Bateman, Esq. and took no position in this Docket.

On April 27, 2022, Petitioner filed a second letter of protest³ stating that she desires to “intervene and protest the letter sent by Modivcare.”

On April 28, 2022, MyRide filed its Opposition to Intervention of Petitioner, and on May 3, 2022, MyRide moved for expedited consideration of its Application. By letter dated May 4, 2022, the ORS informed the Commission that it had reviewed the motion of MyRide and “takes no position on the Motion.”

² A sworn verification of Mr. Bagwell’s testimony was filed on May 4, 2022.

³ This document is dated April 25, 2022, bears a facsimile header with the date of April 26, 2022, and was entered on the Docket Management System on April 27, 2022.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. PETITION TO INTERVENE

As grounds for intervention, Petitioner claims the counties that MyRide applies to serve have more providers than necessary for Modivcare's needs, which she claims has reduced rideshare allocations to carriers. Petitioner further asserts that Modivcare has not offered a fee increase in eight years. Notwithstanding Petitioner's assertions about the need for services in the counties discussed herein, on March 17, 2022, Merit Transit LLC ("Merit Transit"), a company of which she is the principal officer, applied for a Class C (Non-Emergency) CPCN with statewide authority. Merit Transit's Application was uncontested and approved by the Commission on April 19, 2022, by Order No. 2022-230, in Docket No. 2022-118-T.

Upon consideration of the Petition, the Commission finds Petitioner lacks standing to intervene, fails to state valid grounds for intervention, and has taken inconsistent positions before this Commission. The Commission, therefore, denies the Petition to Intervene .

As noted, Petitioner fails to state an interest that justifies intervention. Petitioner states she is the owner/principal of a Non-Emergency Transportation carrier serving the same counties which MyRide seeks to serve and is a competitor of MyRide. While Petitioner's transportation company may have an interest in this Docket, Petitioner in her personal capacity, does not. *See e.g.*, Order No. 86-765 (July 24, 1986).

Petitioner alleges, based on hearsay, that several carriers already serve one of the nine counties that Applicant seeks to serve but provides no information on the other eight counties. While Petitioner complains that Modivcare has not increased fees for non-

emergency transportation providers, the Supreme Court of South Carolina held that detrimental diversion of income, while sometimes relevant to a determination of public convenience and necessity, “is not determinative, as loss of revenue by existing carrier should not itself defeat an application for additional services.” *Greyhound Lines, Inc. v. South Carolina Public Service Comm*, 274 S.C. 161,166, 262 S.E. 2d 18, 21 (1980).

Further, it is inconsistent for Petitioner to assert no need exists for Class C Non-Emergency transportation services because on the same day she filed the protest letter in the instant docket, an entity of which she is a principal filed an application for authority. The filing of that application indicates the Petitioner believes the need exists for Class C Non-Emergency transportation services. Thus, it is inconsistent to allege in a Petition against another carrier, who filed first in time, that no need for the service exists.

B. THE APPLICATION

Upon consideration of the Application, the representations contained therein, and the documentary evidence attached thereto, the Commission finds that MyRide is fit, willing, and able to perform the service to the public under the authority sought. The Commission also finds that the granting of the Certificate is required by public convenience and necessity as evidenced by the verified statement of Scott Bagwell.

Regarding Ms. Walker’s allegations about the safety of MyRide’s vehicles, the Commission notes that ORS conducts a thorough inspection of every entity that applies for a Class C CPCN based on Commission Rules and Regulations to ensure each applicant meets the Fit, Willing, and Able requirements. ORS conducts this inspection as part of the compliance stage following the Commission’s issuance of its Order, which typically allows for a ninety (90)-day period, during which time ORS conducts its inspection. If the

inspection finds that a company's vehicle(s) are not safe or fail to meet any aspect necessary to be fit, willing, and able, the company fails the inspection, and ORS does not issue the Certificate.

IT IS THEREFORE ORDERED:

1. The Petition to Intervene of Candace Burch is denied.
2. The Application of MyRide SC, LLC for a Class C Non-Emergency Certificate of Public Convenience and Necessity is hereby approved.
3. The Applicant, for the duration of operating pursuant to this Class C Non-Emergency Certificate of Public Convenience and Necessity, shall notify the Commission and ORS in writing of any changes to Applicant's mailing and/or physical address, email, telephone numbers, or other contact information.
4. The Applicant will file, or cause to be filed, with the ORS the proper license fees, proof of liability insurance (*i.e.*, "Form E"), and other information required by S.C. Code Ann. Section 58-23-10 et seq. (2015), as amended, and by S.C. Code Ann. Regs. 103-100 through 103-241 (2012) of the Commission's Rules and Regulations for Motor Carriers, and S. C. Code Ann. Regs. 38-400 through 38-503 (2011) of the Department of Public Safety's Rules and Regulations for Motor Carriers, within ninety (90) days of the date of this Order, or within such additional time as may be authorized by the Commission.
5. Upon compliance with the filing of information as required by S.C. Code Ann. Section 58-23-10, et seq. (2015), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann. Regs. Vol. 10 (2012), as amended, a Certificate shall be issued by ORS to the Applicant authorizing the motor carrier services granted herein.

6. Prior to compliance with the requirements regarding the filing of certain information with the ORS and receipt of a Certificate, the motor carrier services authorized by this Order shall not be provided.


7. Failure of the Applicant to either (1) complete the certification process by complying with the requirements of filing with the ORS proof of appropriate insurance and the payment of license fees and such other information required by law within ninety (90) days of the date of this Order or (2) request and obtain from the Commission additional time to comply with the requirements stated above, this Order granting the Application shall be deemed null and void, and the Application herein shall be dismissed without prejudice. In this event, no further order of this Commission is necessary.

8. Pursuant to the two-month reporting requirement contained in Order No. 2014-443 (May 21, 2014), the ORS is requested to furnish the name and docket numbers of the Applicant to the Commission, should the Applicant fail to meet the requirements of the present Order. After such notification, the Docket shall be closed.

9. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:





Florence P. Belser, Vice Chair
Public Service Commission of
South Carolina